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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,930	11/16/2001	Kenneth E. Flick	16107N	5501

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EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT PAPER NUMBER

2635

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/993,930

Applicant(s)

FLICK, KENNETH E.

Examiner

Matsuichiro Shimizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-18, 23-34, 36-41, 46-53, 58-66, 70 and 71 is/are rejected.
- 7) ☒ Claim(s) 7-10, 19-22, 35, 42-45, 54-57 and 67-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/12/02</u> . | 6) <input type="checkbox"/> Other: _____  |

***Invention:*** A remote control system for moving an access door to include an indicator, at least one uniquely coded remote transmitter, and a controller that is switchable to a learning mode. The controller is switchable to a door moving mode based upon receiving a signal from the learned remote transmitter. ***The controller cooperates with the indicator*** for indicating whether a new uniquely coded remote transmitter has been learned based upon the controller being switched to the door moving mode to thereby ***alert a user of a potentially unauthorized learned remote transmitter.***

### ***Non-Statutory Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6, 13-18, 24-27, 29-32, 34, 36-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 7-9, 11 of U.S. Patent No. 6,140,938. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Currently claimed "a remote control system" and "a controller" claims 1-6, 13-18, 24-27, 29-32, 34, 36-41 is broader than claimed "a vehicle security system" and

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“alarm controller” in claims 1-2, 7-9 and 11 of the patent. But PAT-938 is silent on door moving mode.

However, one skilled in the art recognizes secure mode claimed in PAT-938 is in a form of a door moving mode. Furthermore, secure mode and a door moving mode are associated with access to vehicle. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include door moving mode in the claimed device of PAT-938 because claim 2 of PAT-938 suggest secure mode and one skilled in the art recognizes a door moving mode for the purpose of providing access to vehicle.

Claims 48-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 45-46 and 50-53 of U.S. Patent No. 6,140,938 in view of Heitschel et al. (4,750,118). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 48-52, Pat-938 claims remote control function associated with vehicle and a learned remote transmitter for causing performance of a function in claims 45 and 50-53. But Pat-938 is silent on switching the controller to a door moving mode and moving an access door using a remote control.

However, Heitschel teaches, in the art access system, switching the controller to a door moving mode and moving an access door using a remote control (Fig. 2, operate door switch 22 and operate mode associated with door moving mode) for the purpose of providing automatic remote access. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a remote door switch for switching said controller to secure mode in the form of a door moving mode in the claimed device of Pat-938 because claims 45 and 50-53 of Pat-938

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claim remote control function associated with vehicle and a learned remote transmitter for causing performance of a function associated with the vehicle and Heitschel teaches switching the controller to a door moving mode and moving an access door using a remote control for the purpose of providing automatic remote access.

Claims 60-65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 45-46, 50-53 and 58 of U.S. Patent No. 6,140,938. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 60-65, Pat-938 claims remote control function associated with vehicle and a learned remote transmitter for causing performance of a function in claims 45-46, 50-53 and 58. But Pat-938 does not claim switching the controller to a door moving mode and moving an access door using a remote control.

However, Heitschel teaches, in the art access system, switching the controller to a door moving mode and moving an access door using a remote control (Fig. 2, operate door switch 22 and operate mode associated with door moving mode) for the purpose of providing automatic remote access. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include switching the controller to a door moving mode and moving an access door using a remote control in the claimed device of Pat-938 because claims 45, 50-53 and 58 of Pat-938 claim remote control function associated with vehicle and a learned remote transmitter for causing performance of a function associated with the vehicle and Heitschel teaches switching the controller to a door moving mode and moving an access door using a remote control for the purpose of providing automatic remote access.

Claims 53 and 66 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 48 of U.S. Patent No. 6,140,938 in view of Heitschel et al. (4,750,118). Although the conflicting claim is not identical, they are not patentably distinct from each other because:

Regarding claims 53 and 66, Pat-938 do not claim a remote door switch for switching said controller to the door moving mode.

However, Heitschel teaches, in the art access system, a remote door switch for switching said controller to the door moving mode (Fig. 2, operate door switch 22 and operate mode associated with door moving mode) for the purpose of providing automatic remote access. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a remote door switch for switching said controller to the door moving mode in the claimed device of Pat-938 because claim 46 of Pat-938 claims a remote switch between learn mode and secure mode and Heitschel teaches a remote door switch for switching said controller to the door moving mode for the purpose of providing automatic remote access.

Claims 12, 23, 28, 33, 47, 59 and 71 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 48 and 60 of U.S. Patent No. 6,140,938 in view of Heitschel et al. (4,750,118). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 12, 23, 28,33, 47, 59 and 71, Pat-938 does not claim the access door comprises a *garage door*.

However, Heitschel teaches, in the art access system, the access door comprises a garage door (Fig. 1, transmitters 26, 28 and garage door 17) for the purpose of

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providing automatic access. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include the access door comprises a garage door in the claimed device of Pat-938 because claim 58 of Pat-938 claims moving vehicle door and Heitschel teaches the access door comprises a garage door for the purpose of providing secure access.

Claims 11, 46, 58 and 70 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 48 and 60 of U.S. Patent No. 6,140,938 in view of Soenen et al. (6,046,680). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 11, 46, 58 and 70, Pat-938 does not claim the learned remote transmitter transmits a *pseudo-randomly coded signal* to said controller.

However, Soenen teaches, in the art access system, the learned remote transmitter transmits a pseudo-randomly coded signal to said controller (col. 12, lines 4-6, random code generator 36a) for the purpose of providing high level of security. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include the learned remote transmitter transmits a pseudo-randomly coded signal to said controller in the claimed device of Pat-938 because claims 48 and 60 of Pat-938 claims uniquely coded remote transmitter and Soenen teaches the learned remote transmitter transmits a pseudo-randomly coded signal to said controller for the purpose of providing high level of security.

***Allowable Subject Matter***

Claims 7-10, 19-22, 35, 42-45, 54-57, 67-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 7-9, 19-21, 42-44, 54-56, 67-68 the prior arts fail to teach or fairly suggest a remote indicator switch for causing said controller to also cooperate with said at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned.

Claims 10, 22, 45, 57 and 69 is directly dependent on claims 9, 21, 44, 56 and 68 therefore, the prior arts fail to teach or fairly suggest claims 10, 22, 45, 57 and 69 for same reason that the prior arts fail to teach or fairly suggest claims 9, 21, 44, 56 and 68.

Regarding claims 35, the prior arts fail to teach or fairly suggest said at least one indicator progressively indicates a passage of time since the learning mode has been exited.

*Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is 571-272-3066. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3068.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu  
February 6, 2006



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